

# Tax Newsflash

## Fiscal Measures Applicable Starting from 2025 Included in Government Emergency Ordinance 138/2024

Government Emergency Ordinance no. 138/2024, which makes amendments to certain legislation on tax, has been published in the Official Journal of Romania (no. 1222 of 5 December 2024). Some of the measures set out in the Ordinance will apply from the date of its publication, while others will apply from 2025.

### 1. Changes affecting the RO e-Invoice System

- Invoices issued for public procurements, work or service concessions, including those in the defense and security sectors, must contain the appropriate CPV codes from the public procurement reference nomenclature.
- It is clarified that in the case of B2B transactions, only invoices issued between taxable persons established in Romania for goods and services where the place of supply is in Romania will be transmitted through RO e-Invoice.
- It is expressly mentioned that simplified invoices will be included in the scope of RO e-Invoice. However, fiscal receipts issued through electronic fiscal cash registers (AMEF) that meet the conditions of a simplified invoice will be exempt from this requirement, as the fiscal information is already reported through other channels to the tax authorities.
- It is clarified that invoices related to intra-community supplies of goods will be exempt from transmission through the RO e-Invoice system if the Romanian beneficiary uses a VAT code from another EU member state.
- Starting from 1 January 2025, the use of the RO e-Invoice system becomes mandatory for invoices related to B2C operations, specifically for deliveries of goods/services to individuals who do not identify themselves with the supplier/provider through any tax identification code or opt to identify themselves through their personal numerical code. In this context, it is clarified that invoices issued to individuals who do not provide a tax identification code will include a code consisting of 13 zeros.
- The requirement to transmit invoices for vacation vouchers issued by affiliated units in the RO e-Invoice system has been eliminated, considering the expansion of the system's use in B2C relationships.

### 2. Changes affecting the RO e-VAT System

- The requirement for taxpayers to transmit the results of checks carried out on differences communicated through the "RO e-VAT Compliance Notification" has been postponed until 1 July 2025. This measure aims to give taxpayers more time to adapt to the new requirements and manage any non-compliance without affecting the functioning of the IT system.
- It is specified that taxable persons which have deducted VAT for purchases from public/social programs funded from public funds, and subsequently handed these over free of charge to beneficiaries based on protocol, must issue self-invoices to reflect the collected VAT.

### 3. Changes affecting the RO e-Transport System

- The application of sanctions provided in Art. LXXIV point 21 of Government Emergency Ordinance no. 115/2023 has been postponed until 31 March 2025, for Authorized Economic Operators. This exception applies to users as defined in Art. 8<sup>1</sup> of Government Emergency Ordinance no. 41/2022, which hold the status of Authorized Economic Operator according to Art. 38 of Regulation (EU) no. 952/2013 on the Union Customs Code, valid at the time when the international transport of goods is carried out. Consequently, sanctions will only apply to acts found starting from this date, giving businesses an additional period to comply with the new requirements.

#### 4. Changes to Provisions in the Fiscal Code Concerning:

##### a) Value Added Tax

- An additional element has been introduced for simplified invoices, i.e. the VAT registration code or the tax identification code of the beneficiary if they are a taxable person or a non-taxable legal entity.
- In the case of operations subject to simplification measures according to Art. 331 of the Fiscal Code, if the VAT taxable base is adjusted according to Art. 287 letters a) - c) and e) of the Fiscal Code, and the supplier does not issue the correction invoice, the beneficiary must issue a self-invoice to adjust the taxable base and the input VAT by the 15th of the month following the event that generated the adjustment.

##### b) Excise Duties

- A joint order of the President of ANAF and the President of the Romanian Customs Authority will establish criteria for assessing fiscal risk to determine registered recipients with high fiscal risk, and companies falling into this category will be notified by the appropriate customs authority. These companies will be required to provide a guarantee of 120% of the value of the excise duties for the quantity of excisable products they intend to receive. This guarantee can be extended without any other formalities to obligations more than 5 days overdue from the legal payment deadline set by ANAF. Additionally, they will be required to submit an affidavit stating the quantity of excisable products they intend to receive. At least 3 calendar days before the quantity limit stated in this declaration is exhausted, the appropriate authority must be notified. Purchasing excisable products without submitting the affidavit and without guaranteeing the payment of excises is considered a criminal offense. A business is no longer considered to have a high fiscal risk if it is found by the authorities that over 36 consecutive months from the date of submission of its first affidavit, the business has not recorded outstanding fiscal obligations to the consolidated general budget, of the nature managed by ANAF, for which the guarantee was given.
- Businesses registered with the appropriate authority for wholesale distribution and trade without storage of alcoholic beverages, processed tobacco, and energy products, and which release excisable products for consumption from a tax warehouse, will be required to submit an affidavit stating the quantity of excisable products they intend to release for consumption (a model declaration will be established by an Order of the President of ANAF). At least 3 calendar days before the quantity limit stated in this declaration is exhausted, the relevant authority must be notified. These businesses are also required to provide a guarantee of 120% of the value of the excise duties for the quantity of excisable products they intend to release for consumption. This guarantee can also be extended without any other formalities to obligations more than 5 days overdue from the legal payment deadline managed by ANAF.

#### 5. Income Tax

- Non-taxable income now includes income received as a result of transferring possession through acts for the cause of death.
- Clarifications have been made in relation to the fiscal treatment applicable to income from the lease of goods paid by legal entities or other entities that are required to keep accounting records. If rent was paid in advance before 31 December 2023, for a period after 1 January 2024, the requirement to declare, calculate, and pay income tax lies with the owner, usufructuary, or other legal holders, through the Single Declaration. The same provisions apply if rent is paid exclusively in kind.
- Clarifications have been made in relation to the fiscal treatment applicable to pension income obtained from abroad. This income is subject to taxation by applying a 10% tax rate on the taxable monthly income, determined by deducting the non-taxable monthly amount of 3,000 lei from the pension income.



## 6. Profit Tax, Minimum Turnover Tax, and Additional Tax

- For profit taxpayers, technical clarifications are made in relation to the mechanism for allocating total excess borrowing costs reported in relation to affiliated persons.
- It is clarified that taxpayers of the additional tax owed by companies operating in the oil and gas sectors (ICAS) or the additional tax for credit institutions (ICIS) are not also liable for the minimum turnover tax (IMCA), as long as they are liable for the respective taxes.
- These provisions come into force from the date of publication of the Ordinance in the Official Journal of Romania.

## Contact

### **KPMG în România**

Șoseaua Bucuresti - Ploiesti, nr. 89A  
Sector 1, Bucuresti 013685, Romania  
Tel: +40 372 377 800 / Fax: +40 372 377 700  
Internet: [www.kpmg.ro](http://www.kpmg.ro)  
E-mail: [kpmgro@kpmg.ro](mailto:kpmgro@kpmg.ro)

### **René Schöb**

Partener, Head of Tax & Legal,  
KPMG în România  
E: [rschob@kpmg.com](mailto:rschob@kpmg.com)

### **Mădălina Racovițan**

Partener, Consultanță fiscală,  
KPMG în România  
E: [mracovitan@kpmg.com](mailto:mracovitan@kpmg.com)

### **Laura Toncescu**

Partener KPMG,  
Head of KPMG Legal – Toncescu și Asociații  
E: [ltoncescu@kpmg.com](mailto:ltoncescu@kpmg.com)

### **Alin Negrescu**

Partener, Consultanță fiscală,  
KPMG în România  
E: [vnegrescu@kpmg.com](mailto:vnegrescu@kpmg.com)

### **Daniel Pană**

Partener, Consultanță fiscală,  
KPMG în România  
E: [dpana@kpmg.com](mailto:dpana@kpmg.com)

### **Inga Țigai**

Partener, Consultanță fiscală,  
KPMG în România  
E: [ingatigai@kpmg.com](mailto:ingatigai@kpmg.com)